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IN THE

Supreme Court of the United States

CHARLES THOMAS DICKERSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF OF GRIFFIN B. BELL, *et al.* AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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TABLE OF CONTENTS

Page

INTEREST OF *AMICI CURIAE* 1

SUMMARY OF ARGUMENT 1

ARGUMENT 3

I. AFFIRMING THE CONSTITUTIONALITY OF SECTION 3501 WOULD REQUIRE OVERTURNING *MIRANDA* 3

II. BECAUSE THE *MIRANDA* RULE DOES NOT HAMPER EFFECTIVE LAW ENFORCEMENT AND IS DEEPLY ROOTED IN COMMUNITY EXPECTATIONS, THE PRINCIPLE OF *STARE DECISIS* STRONGLY COUNSELS AGAINST OVERRULING *MIRANDA* 5

A. Far from Being "Outdated, Ill-Founded or Unworkable," the *Miranda* Warnings Promote Effective Law Enforcement 6

1. *Miranda* Provides Bright Lines for Law Enforcement to Follow 11

2. *Miranda* Assists in Securing Convictions of the Guilty 19

B. Settled Community Expectations Weigh Heavily Against Overturning *Miranda* 22

1. The Public Has Accepted and Developed Strong Expectations About *Miranda* ..... 2?

2. Law Enforcement Has Developed Settled Expectations Concerning *Miranda* 26

CONCLUSION 30

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Page(s)

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INTEREST OF *AMICI CURIAE*

This brief is filed on behalf of numerous present and former federal, state and local law enforcement officers and prosecutors who share the view that *Miranda v. Arizona*, 384 U.S. 436 (1966) should not be overturned because it has become a fundamental part of our criminal justice system and because it promotes fair and effective law enforcement.[1]

SUMMARY OF ARGUMENT

Thirty-four years after this Court decided *Miranda v. Arizona*, and after this Court has decided dozens of cases elaborating its consequences and implications, the Court today faces the claim that *Miranda* should be overruled, and indeed that all of the many decisions based on it for over thirty years have lawlessly disregarded a congressional statute that supposedly supplanted it.

This remarkable effort to uproot one of the most familiar and fundamental of this Court's constitutional decisions about police procedures defies the basic precept of *stare decisis*. As the Court has recently observed, a constitutional decision, and particularly one that enforces and indeed has come to symbolize the liberties of our people, should only be overturned if it has proved to be "unworkable," has been "discounted by society," or has proved "irrelevant or unjustifiable in dealing with the issue it

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[1] A list of the *amici* who are filing this brief is set forth in the Appendix. Counsel for a party did not author this brief in whole or in part and no person or entity, other than the *amici curiae* or counsel, have made a monetary contribution to the preparation or submission of the brief. Pursuant to Rule 37 of the Rules of the Supreme Court, the parties have consented to the filing of this brief, and copies of the consents have been filed with the Clerk of the Court.

addressed," and if overruling it would not undermine the "stability" fostered by the decision. *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 854-55 (1992).

As experienced prosecutors and law enforcement officials who have been active participants in law enforcement on every level since *Miranda* was decided, *amici* are particularly well placed to address whether the rule of *Miranda* has proved unworkable or harmful to law enforcement, and whether it has promoted stability and become embedded in the structure of the law and the consciousness of the public and law enforcement officers. In the case of *Miranda*, the standards for overruling established precedent manifestly have not been met.

First, far from proving impractical or destructive, *Miranda* has provided a clear, bright-line, easily enforceable rule governing the admission of statements obtained from defendants during custodial interrogation. Under *Miranda*, police officers and other law enforcement personnel are trained to follow a simple and consistent protocol in interrogating suspects, prosecutors can easily assess the admissibility of confessions, and judges are given a straightforward and objective standard to apply in reviewing the legality of interrogations. If the *Miranda* warnings are properly given, and the defendant nevertheless waives his rights and makes a statement, that statement will almost certainly be admissible, and an argument that it was coerced will rarely succeed. In sharp contrast, under the pre-*Miranda* regime that the decision below would restore, law enforcement personnel, prosecutors, the lower courts and even this Court faced a confusing, irreconcilable mass of *ad hoc* decisions based on judges' subjective assessments of the tactics followed by individual interrogators and the mental states of particular defendants.

Second, *Miranda* has withstood the test of time and become an established pillar of American law. Generations of law enforcement personnel have been trained and have operated under its standards. The decision has not hindered the dramatic improvements in law enforcement practices that have been achieved in recent years. Moreover, this Court has decided dozens of cases interpreting the rule of *Miranda*, without any suggestion that its authority has eroded or that its administration has become problematic. Rather than being "discounted by society," *Miranda* stands as the decision of this Court whose content is perhaps best known and most deeply accepted by the public. Every Hollywood crime drama and television police show that depicts an arrest shows the officer warning the arrestee of his rights in accordance with *Miranda*. Those warnings have become a symbol of the constitutional limits on arbitrary or coercive government authority.

To overrule a decision so firmly embedded in the case law and the public consciousness would not only bring the law into disrepute, but would surely send an unintended and destructive signal to the police and the public that fundamental rights themselves, and not merely the requirement that defendants be advised of them, have been repealed.

ARGUMENT

I. AFFIRMING THE CONSTITUTIONALITY OF SECTION 3501 WOULD REQUIRE OVERTURNING *MIRANDA*

In *Miranda v. Arizona*, this Court held that before conducting custodial interrogation of a criminal suspect, the police must provide the suspect with warnings concerning his constitutional right against self-incrimination, and the

suspect must waive those rights. 384 U.S. at 444. For all the reasons set forth in the Brief for the United States on Petition for Writ of Certiorari, we agree with the United States that the holding of *Miranda* is rooted in the Constitution.

We also agree with the United States that 18 U.S.C. § 3501 could only be constitutional if this Court were to overrule *Miranda*. *Miranda*'s requirements were expressly based upon the conclusion that, in view of the inherently coercive effects of custodial interrogation, some form of warning was necessary to protect a defendant's Fifth Amendment rights. *See* 384 U.S. at 466. While the Court made clear in *Miranda* that the precise warning regime that it prescribed was not itself a constitutional right, the Court held: "Congress and the States are free to develop their own safeguards for the privilege, *so long as they are fully as effective as those described above in informing accused persons of their right of silence and in affording a continuous opportunity to exercise it.*" *Id.* at 490 (emphasis added). Section 3501 simply does not satisfy this requirement because it does not provide any system whatsoever for informing suspects of their rights. Rather than accepting the Court's invitation to devise an alternative method for informing suspects of their rights, Section 3501 purports to overrule *Miranda* by making admissible any statement that under "all the circumstances" can be considered "voluntary," even if the defendant was unaware of his right to silence and his right to have counsel present during the interrogation. 18 U.S.C. § 3501(a) & (b).[2]

[2] Indeed, the Fourth Circuit below had no trouble concluding that, "[b]ased upon the statutory language, it is perfectly clear that Congress enacted § 3501 with the express purpose of legislatively overruling *Miranda*." *United States v. Dickerson*, 166 F.3d 667, 686 (4th Cir. 1999). Of course, if, as the United States has established, *Miranda* is constitutionally based, only this Court, not Congress, has the power to overrule it. *See City of Boerne v. Flores*, 521 U.S. 507 (1997).

Section 3501 thus attempts to restore the situation that existed before *Miranda*, the very situation that this Court held was inconsistent with the rights guaranteed by the Constitution.

In short, because Section 3501 does not satisfy the requirements set forth in *Miranda*, and because *Miranda* is based in the Constitution, this Court can only uphold Section 3501 if it overrules *Miranda*. Although some of the current and former law enforcement officers and prosecutors joining this brief believe that certain aspects of the *Miranda* line of cases might bear reconsideration, all of us join in urging this Court to reaffirm the core holding of *Miranda*, and to reject the Congressional effort to overrule it legislatively.

II. BECAUSE THE *MIRANDA* RULE DOES NOT HAMPER EFFECTIVE LAW ENFORCEMENT AND IS DEEPLY ROOTED IN COMMUNITY EXPECTATIONS, THE PRINCIPLE OF *STARE DECISIS* STRONGLY COUNSELS AGAINST OVERRULING *MIRANDA*

As this Court has noted, the doctrine of *stare decisis* "permits society to presume that bedrock principles are founded in the law rather than in the proclivities of individuals, and thereby contributes to the integrity of our constitutional system of government, both in appearance and in fact." *Vasquez v. Hillery*, 474 U.S. 254, 265-66 (1986). There can be little doubt that society at large considers *Miranda* to be a "bedrock" principle of law. Indeed, there are few cases that loom so large in the public's consciousness. This Court can only justify overturning

Miranda and the settled expectations that have grown up around it if that decision has proved to be "outdated, ill-founded, unworkable, or otherwise legitimately vulnerable to serious reconsideration." *Id.* at 266. *See also Casey*, 505 U.S. at 854-55 (prior decision should be overruled only if it has proved to be "unworkable," has been "discounted by society," has proved "irrelevant or unjustifiable in dealing with the issue it addressed," and if overruling it would not undermine the "stability" fostered by the decision); *Payne v. Tennessee*, 501 U.S. 808, 827 (1991) ("*Stare decisis* is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process."); *California v. Acevedo*, 500 U.S. 565, 579 (1991) ("[T]his Court has overruled a prior case on the comparatively rare occasion when it has bred confusion or has been a derelict or led to anomalous results.").

Application of these principles requires that *Miranda* not be overruled. On the contrary, these principles strongly support the reaffirmation of its core holding. *First*, its requirements have proved to be eminently "workable." *Second*, overruling *Miranda* would disrupt important settled expectations of the public and of law enforcement about our criminal justice system.

A. Far from Being "Outdated, Ill-Founded or Unworkable," the *Miranda* Warnings Promote Effective Law Enforcement

In the thirty-four years since *Miranda* became the law of the land, the local, state and federal institutions responsible for enforcing the nation's criminal laws have developed an invaluable body of experience in how to detect, investigate and prosecute crimes within the constitutional

guidelines set forth in *Miranda*. Although initially the *Miranda* decision necessarily required some changes in certain law enforcement and prosecutorial practices, the historical record supports the conclusion already evident to Chief Justice Burger twenty years ago, that "[t]he meaning of *Miranda* has become reasonably clear and law enforcement practices have adjusted to its strictures." *Rhode Island v. Innis*, 446 U.S. 291, 304 (1980) (Burger, C.J., concurring).

By its very nature, *Miranda* occasionally results in the exclusion of evidence that supports a criminal conviction. It is our considered view, based on our wide-ranging personal experience in law enforcement, that the occasional adverse impact in individual cases is far outweighed by the systemic benefits *Miranda* provides to the functioning of our criminal justice system.[3] *Miranda* was self-consciously an "attempt[] to reconcile" competing concerns: to allow law enforcement agents to conduct interrogations and gather evidence of criminal wrongdoing while promoting the integrity of the investigative process and ensuring respect for a suspect's constitutional rights. *Moran v. Burbine*, 475 U.S. 412, 426-27 (1986). We strongly believe that *Miranda* strikes an appropriate balance and does far more to promote effective law enforcement than to undermine it.

We recognize that some of our law enforcement colleagues have indicated their support for Section 3501. We nonetheless believe that our views concerning the effects

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[3] The adverse effects of *Miranda* even on particular cases is often overstated. Many defendants can be convicted without confession evidence. Indeed, after *Miranda* was remanded, Ernesto Miranda was convicted on re-trial and remained in prison until December 1972. *See* Liva Baker, *Miranda: Crime, Law and Politics* 193 & 381 (1985).

of *Miranda* reflect a widely shared view among those in institutions responsible for enforcing the criminal laws that *Miranda* promotes effective law enforcement.[4] As a survey of law enforcement officials performed by a blue-ribbon commission of the American Bar Association concluded in 1988, "[a] very strong majority of those surveyed – prosecutors, judges, and police officers – agree that compliance with *Miranda* does not present serious problems for law enforcement." American Bar Association Special Committee on Criminal Justice in a Free Society, *Criminal Justice in Crisis* 28 (1988). The following is just a small sample of the wide variety of law enforcement officials and prosecutors who have publicly stated that they support *Miranda*:

- Charles E. Moylan, former Baltimore State's Attorney: "Every prosecutor in the country hated *Miranda* the day it came down . . . but after a decade, even those who were strongly pro-state had come to the conclusion, 'Hey, we can live with this.' . . . It would be chaos to ever go back."[5]

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[4] Criticisms of *Miranda* have generally been based on anecdotal, and occasionally statistical, claims about *Miranda*'s impact. *See, e.g.*, Paul G. Cassell, *Miranda's Social Costs: An Empirical Reassessment*, 90 Nw. U. L. Rev. 387 (1996); *The Clinton Justice Department's Refusal to Enforce the Law on Voluntary Confessions, Hearing Before the Subcomm. on Criminal Justice Oversight of the Senate Comm. on the Judiciary*, 106th Cong. 1st Sess. (May 13, 1999) (statement of Gilbert G. Gallegos). These claims do not comport with our experience as law enforcement agents and prosecutors, and their validity has been persuasively attacked. *See, e.g.*, Stephen J. Schulhofer, *Miranda's Practical Effect: Substantial Benefits and Vanishingly Small Social Costs*, 90 Nw. U. L. Rev. 500 (1996).

[5] Brooke A. Masters & Tom Jackman, *Justice System Worries About 'Miranda,'* Wash. Post, Feb. 16, 1999, at B1.

- Gene Cromartie, International Association of Chiefs of Police: "[*Miranda* is] ingrained in everything we do." Overturning *Miranda* would "open up a Pandora's box. Why take a chance? It's not a big effort to read someone their rights."[6]

- Chris Koster, Cass County, Missouri Prosecutor: "There's nothing more important than making sure people in law enforcement are viewed as the good guys. To go back to the days prior to *Miranda* puts our credibility at risk, and no one wants to go in that direction."[7]

- Rudolph W. Giuliani, Mayor of New York City and former United States Attorney: "I generally don't think we should change things unless there's a terribly good reason to do so. There's a real benefit in keeping things stable."[8]

- David Fogel, Chicago Police Department Office of Professional Standards: "We're all for *Miranda* warnings . . . the cost is infinitesimally small compared

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[6] Tony Mauro, *Undoing Tradition? Legal Renegade's Mission: Upend Enduring Decision*, USA Today, Mar. 1, 1999, at 1A.

[7] Steve Kraske & Tanyanika Samuels, *Court to Review Miranda Issues But Area Police Say Ruling Fine As Is*, Kansas City Star, Dec. 7, 1999, at A1.

[8] Burt Solomon, *Meese Sets Ambitious Agenda That Challenges Fundamental Legal Beliefs*, 17 Nat'l J. 2640 (Nov. 23, 1985).

to living in a democratic society where you don't give warnings and you can't seize evidence illegally."[9]

- John B. Holmes, Jr., Harris County, Texas District Attorney: "Over the years [police and prosecutors have] come to understand, follow and apply the [*Miranda*] rule. And I don't think it is the terrible thing we thought it was. We still get as many confessions as we ever did, and we still get as much evidence."[10]

- John R. Justice, Solicitor for the Sixth Circuit, Chester, South Carolina & President, National District Attorneys Association: "*Miranda* has not been the devastating death blow to law enforcement that people back in the '60s thought it was going to be . . . *Miranda* is an extension of the Fifth Amendment . . . ."[11]

- Francis M. Roche, former Boston Police Commissioner: "*Miranda* made us more professional. It forced us to appreciate the Constitution. We now have great respect for people and we want to protect those rights."[12]

- Thomas Sturgeon, Allegheny County, Pennsylvania Police Superintendent: "Police have been successful in

[9] Tom Gibbons & Jim Casey, *Ed Meese's War On Miranda Draws Scant Support*, Chicago Sun-Times, Feb. 17, 1987, at 41.

[10] Lori Rodriguez, *Attorneys Say Miranda Ideal As Is*, Houston Chron., Jan. 23, 1987, at 23.

[11] David E. Rovella, *'Miranda' Upheaval Unlikely*, Nat'l L.J., Mar. 1, 1999, at A1.

[12] Eduardo Paz-Martinez, *Police Chiefs Defend Miranda Decision Against Meese Threats*, Boston Globe, Feb. 5, 1987, at 25.

solving crimes with the *Miranda* rights in place . . . I think to just eliminate the *Miranda* warning would probably bring more scrutiny and mistrust against the police. So I think they should leave it the way it is."[13]

Moreover, *Miranda*'s workability is confirmed by the fact that "with limited exceptions [Section 3501] has been studiously ignored by every administration, not only in this Court but in the lower courts, since its enactment more than 25 years ago." *Davis v. United States*, 512 U.S. 452, 463-64 (1994) (Scalia, J., concurring). Similarly, no state has accepted the Supreme Court's invitation to devise an alternative to *Miranda*'s warnings. If *Miranda* were unworkable, surely some Department of Justice would have advanced Section 3501 before this Court, or some state would have pressed this Court to accept a similar statutory framework.

1. *Miranda* Provides Bright Lines for Law Enforcement to Follow

For the law enforcement officer questioning a suspect, *Miranda* provides an easy and effective guide to compliance with constitutional limits. As this Court has "stressed on numerous occasions, one of the principal advantages of *Miranda* is the ease and clarity of its application." *Moran*, 475 U.S. at 425 (quotations omitted). "[R]igidity [i]s the strength of the [*Miranda*] decision. It afford[s] police and courts clear guidance on the manner in which to conduct a custodial investigation . . . ." *Fare v. Michael C.*, 439 U.S. 1310, 1314 (1978) (Rehnquist, J., in chambers).

[13] Torsten Ove, *Miranda Warning Facing Challenge in Supreme Court*, Pittsburgh Post-Gazette, Jan. 10, 2000, at A-1.

Miranda establishes a set of bright-line rules that are easy for police officers and agents to understand and apply to ensure that a confession will be admissible in the government's case-in-chief. For police officers and law enforcement personnel in the line of duty, the clarity of these rules is paramount. Under the pressures of conducting an investigation, "[p]olice officers are ill-equipped to pinch-hit for counsel, construing the murky and difficult questions . . ." *Oregon v. Elstad*, 470 U.S. 298, 316 (1985). The clear procedures set by *Miranda* significantly simplify the calculus that a police officer in the line of duty must perform. *See, e.g., Michigan v. Tucker*, 417 U.S. 433, 443 (1974) (the *Miranda* rules "help police officers conduct interrogations without facing a continued risk that valuable evidence would be lost"). Moreover, *Miranda* considerably facilitates the training of law enforcement in interrogation procedures. Generations of officers have been trained on one simple litany: Before custodial interrogation begins, provide the *Miranda* warnings; if the right to remain silent or for counsel is asserted, cease questioning.

Miranda also promotes judicial respect for the many complex and delicately balanced decisions that law enforcement agents make during interrogations. *Miranda*'s requirements can be objectively assessed not only by the police officer conducting the interrogation, *but also by the court reviewing it*. The primary questions for the court are simple: Have the warnings been provided and have the rights been waived? The objective nature of this assessment lessens the need for intrusive judicial scrutiny of the conduct and state of mind of the suspect or the police officer conducting the interrogation. Once the court determines that there have been proper warnings and waiver, in all but the most exceptional cases, there is no need, and little room, for further judicial second-guessing of the interrogation. *See,*

e.g., Minnick v. Mississippi, 498 U.S. 146, 151 (1990) (*Miranda*'s holding "'has the virtue of informing police and prosecutors with specificity as to what they may do in conducting custodial interrogation . . .'") (quoting *Fare v. Michael C.*, 442 U.S. 707, 718 (1979)). The fact that warnings have been provided radically truncates potential challenges to admission of a confession. *See, e.g., Berkemer v. McCarty*, 468 U.S. 420, 433 n.20 (1984) ("[C]ases in which a defendant can make a colorable argument that a self-incriminating statement was 'compelled' despite the fact that the law enforcement authorities adhered to the dictates of *Miranda* are rare").

This is in stark contrast to pre-*Miranda* law, to which the Fourth Circuit's decision would return law enforcement. The pre-*Miranda* "voluntariness" standard has none of the virtues of the bright-line rule, and imposed significant burdens on law enforcement for three distinct reasons:

1. *The Voluntariness Standard Encompasses an Unreasonable Number of Factors for Law Enforcement Agents to Assess*: Under Section 3501, the admissibility of a confession turns on whether the confession is "voluntary" in light of "all the circumstances." 18 U.S.C. § 3501(b). It is difficult to conceive how law enforcement agencies could effectively or efficiently train officers how to make *ex ante* assessments on the street or in the stationhouse that their interrogation techniques will lead to a "voluntary" confession. Indeed, the pre-*Miranda* experience makes prediction unnecessary: we already know that courts enumerated an almost limitless number of potentially relevant factors in this determination. In the margin, we set forth over twenty distinct factors that this Court alone, prior

to *Miranda*, held might bear on the voluntariness inquiry.[14] In light of this multiplicity of factors, a police officer may

[14] Aside from physical violence, our review has identified the following factors from this Court's pre-*Miranda* case law: (1) length of the interrogation, *see, e.g., Davis v. North Carolina*, 384 U.S. 737 (1966), *Ashcraft v. Tennessee*, 322 U.S. 143 (1944), *Chambers v. Florida*, 309 U.S. 227 (1940); (2) location of interrogation and disorientation of defendant, *see, e.g., Davis*, 384 U.S. 737, *Reck v. Pate*, 367 U.S. 433 (1961), *Ward v. Texas*, 316 U.S. 547 (1942); (3) continuity in interrogation, *see, e.g., Leyra v. Denno*, 347 U.S. 556 (1954), *Harris v. South Carolina*, 338 U.S. 68 (1949), *Watts v. Indiana*, 338 U.S. 49 (1949), *Ashcraft*, 322 U.S. 143; (4) defendant's maturity, *see, e.g., Gallegos v. Colorado*, 370 U.S. 49 (1962), *Haley v. Ohio*, 332 U.S. 596 (1948); (5) defendant's education level, *see, e.g., Crooker v. California*, 357 U.S. 433 (1958), *Payne v. Arkansas*, 356 U.S. 560 (1958), *Harris*, 338 U.S. 68; (6) defendant's physical condition or illness, *see, e.g., Greenwald v. Wisconsin*, 390 U.S. 519 (1968), *Townsend v. Sain*, 372 U.S. 293 (1963), *Wan v. United States*, 266 U.S. 1 (1924); (7) defendant's mental health, *see, e.g., Blackburn v. Alabama*, 361 U.S. 199 (1960), *Spano v. New York*, 360 U.S. 315 (1959), *Fikes v. Alabama*, 352 U.S. 191 (1957); (8) defendant's intelligence, *see, e.g., Reck*, 367 U.S. 433, *Crooker*, 357 U.S. 433, *Fikes*, 352 U.S. 191; (9) defendant's formal legal training, *see, e.g., Crooker*, 357 U.S. 433; (10) whether defendant speaks English, *see, e.g., Gallegos v. Nebraska*, 342 U.S. 55 (1951); (11) inconsistencies in consecutive confessions, *see, e.g., Clewis v. Texas*, 386 U.S. 707 (1967); (12) whether defendant has been subjected to travel, *see, e.g., Clewis*, 386 U.S. 707, *Spano*, 360 U.S. 315, *Ward*, 316 U.S. 547; (13) whether defendant has been deprived of medications or medical attention, *see, e.g., Greenwald*, 390 U.S. 519, *Reck*, 367 U.S. 433, *Leyra*, 347 U.S. 556; (14) whether defendant has been deprived of food, *see, e.g., Davis*, 384 U.S. 737, *Reck*, 367 U.S. 433, *Payne*, 356 U.S. 560; (15) whether defendant was stripped of clothing, *see, e.g., Malinski v. New York*, 324 U.S. 401 (1945), *Bram v. United States*, 168 U.S. 532 (1897); (16) physical conditions of the interrogation room, *see, e.g., Blackburn*, 361 U.S. 199, *Ward*, 316 U.S. 547; (17) use of trickery or deception by the interrogators, *see, e.g., Spano*, 360 U.S. 315, *Leyra*, 347 U.S. 556; (18) use of multiple inquisitors questioning in "relay," *see, e.g., Spano*, 360 U.S. 315, *Harris*, 338 U.S. 68, *Ashcraft*, 322 U.S. 143; (19) whether defendant was sleep-deprived, *see, e.g., Leyra*, 347 U.S. 556, *Watts*, 338 U.S. 49, *Ashcraft*, 322 U.S. 143, *Chambers*, 309 U.S. 227; (20) whether defendant was inappropriately threatened, *see, e.g., Lynumn v. Illinois*, 372 U.S. 528 (1963) (custody of children), *Payne*, 356 U.S. 560 (mob violence), *Thomas v. Arizona*, 356 U.S. 390 (1958) (mob violence), *Harris*, 338 U.S. 68 (harassment of family members), *Ward*, 316 U.S. 547 (mob violence); (21) the length of time defendant was held *incommunicado* or in isolation, *see, e.g., Haynes v. Washington*, 373 U.S. 503 (1963), *Reck*, 367 U.S. 433, *Payne*, 356 U.S. 560, *Watts*, 338 U.S. 49; (22) whether defendant was subjected to physical hardship, *see, e.g., Davis*, 384 U.S. 737, *Wan*, 266 U.S. 1; (23) whether defendant was advised of rights to remain silent or of right to counsel, *see, e.g., Davis*, 384 U.S. 737, *Haynes*, 373 U.S. 503, *Mallory v. United States*, 354 U.S. 449 (1957), *Turner v. Pennsylvania*, 338 U.S. 62 (1949); (24) whether defendant's request to speak to a lawyer was granted, *see, e.g., Greenwald*, 390 U.S. 519, *Haynes*, 373 U.S. 503, *Spano*, 360 U.S. 315; (25) whether defendant was detained before arraignment, *see, e.g., Mallory*, 354 U.S. 449, *Turner*, 338 U.S. 62; (26) whether pre-trial detention violates state law, *see, e.g., Fikes*, 352 U.S. 191, *Watts*, 338 U.S. 49, *Ward*, 316 U.S. 547. In many of the pre-*Miranda* decisions, several different combinations of factors were assessed in order to determine the voluntariness of the confession.

know under 18 U.S.C. § 3501 that there may be some eventual courtroom benefit in providing warnings, but has no way of knowing for certain what effect providing the warnings – or anything else that happens during the interrogation – will have on the admissibility of any particular statement made by the suspect. *See* 18 U.S.C. § 3501(b) ("The presence or absence of any of the above-mentioned factors . . . need not be conclusive"). In short, police officers will be uncertain what is expected of them. If the officer guesses wrong, under Section 3501, the trial judge will be required to suppress the confession.

2. *The Voluntariness Standard Reopens Difficult Assessments of the Suspect's State of Mind*: Under the constitutional framework governing interrogations before *Miranda*, admissibility of a suspect's statement frequently turned on highly detailed and subjective judicial fact-finding about the state of the defendant's mind and the trial court's

weighing of the coercive impact of the interrogator's tactics on that particular arrestee. These decisions frequently turned on judicial assumptions as to what a suspect subjectively understood under the circumstances of the interrogation.[15] For reasons long recognized by this Court, it was exceedingly difficult for a police officer to anticipate during an interrogation what techniques might be over the line for a particular suspect. *See, e.g., Culombe v. Connecticut*, 367 U.S. at 604-05 (Frankfurter, J.) ("The notion of 'voluntariness' is itself an amphibian.").

Although this Court has prudently pared back the inquiry into a suspect's subjective state of mind in determining the admissibility of a statement where warnings have been provided, *see Colorado v. Connelly*, 479 U.S. 157, 164 (1986), overturning *Miranda* would invite trial courts to reopen the broad inquiries typical of pre-*Miranda* cases, where courts would delve into the suspect's state of mind – and even more problematically – the police officer's understanding of the suspect's state of mind.

3. *The Voluntariness Standard Invites Ad Hoc Scrutiny of Police Tactics*: The wide-ranging scope of voluntariness determinations will inevitably lead to an equally wide-ranging judicial second-guessing of police tactics. Particularly in light of the *Miranda* Court's correct observation that stationhouse interrogation involves "inherently compelling pressures," 384 U.S. at 467, without *Miranda* warnings, trial courts will explore, in a broader class of cases, whether the suspect's decision to talk was truly voluntary. Some of these courts can be expected to scrutinize carefully and skeptically the conduct and tactics of

[15] *See, e.g., Haynes*, 373 U.S. 503; *Culombe v. Connecticut*, 367 U.S. 568 (1961); *Blackburn*, 361 U.S. 199; *Crooker*, 357 U.S. 433.

the interrogator. Aside from keeping police officers off their beats and in the witness chair, enhanced scrutiny in this area will likely lead to judicial decisions, made in the removed comfort of a courtroom, which unfairly and improperly criticize police conduct that were reasonable responses to rapidly unfolding situations. *Cf. United States v. Sharpe*, 470 U.S. 675, 686 (1985) (when "the police are acting in a swiftly developing situation . . . the court should not indulge in unrealistic second-guessing. . . . A creative judge engaged in *post hoc* evaluation of police conduct can almost always imagine some alternative means by which the objectives of the police might have been accomplished").

Moreover, because the determination concerning voluntariness is an inherently subjective finding of fact about the interplay of the mental state of a defendant and the conduct of the police officer, whose demeanors will both be assessed by the individual trial judge, the same interrogation can be expected to lead to different decisions depending on the experience and attitudes of the particular judge who hears the case, and appellate courts will have little ability to promote consistency or control aberrant decisions.[16] The invitation to judicial second-guessing of police tactics would be bad enough if it led to courts' invalidating useful interrogation techniques; it will be far worse that the judicial intrusions will not even produce clear or consistent rules about what is or is not allowed.

* * *

Undoubtedly, many law enforcement agencies may address this uncertainty by continuing to require their officers to provide *Miranda* or similar warnings through

[16] *See infra* note 18.

internal regulations. The possibility of such voluntary implementation may, at least in part, explain the willingness of some law enforcement organizations to support Section 3501.[17]

In our view, a voluntary regime of warnings has several obvious flaws. *First*, overruling *Miranda* would end uniformity in interrogation procedures. Even for those departments that adopt warnings, there would undoubtedly be periodic alteration and variation in the warnings over time. Aside from the extensive (and potentially endless) litigation likely to ensue over the effect of any given set of alternative warnings, constant tinkering with the warnings would inevitably make the policies harder to follow and undermine compliance. *Cf. Colorado v. Bertine*, 479 U.S. 367, 375 (1987) ("[A] single familiar standard is essential to guide police officers, who have only limited time and expertise to reflect on and balance the social and individual interests involved in the specific circumstances they confront.") (citation omitted). *Second*, there is no guarantee that internal regulations will be as effective as *Miranda* in encouraging police to administer warnings, because under purely internal regulations the prosecutor's evidentiary interest in assuring that warnings have been provided will become attenuated. Moreover, while we hope that most professional and effective law enforcement agencies would continue to require their officers to give some form of warning (as the Federal Bureau of Investigation did long before *Miranda* was decided), some police agencies may short-sightedly dispense with warnings and adopt more aggressive interrogation techniques. These techniques could go up to and over the line of constitutional coerciveness,

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[17] *See, e.g.*, Brief of *Amici Curiae* Americans for Effective Law Enforcement, *et al.*, at 4.

presenting courts with difficult *ad hoc* decisions on the voluntariness of confessions extracted without due regard for the suspect's rights. The likelihood that some departments will drop warnings altogether can only be expected to grow as the memory of the value of *Miranda* fades.

2. *Miranda* Assists in Securing Convictions of the Guilty

For prosecutors, *Miranda* provides a valuable tool in securing and expediting convictions of those who commit crimes. Once a case moves from investigation to prosecution, *Miranda*'s clear rules make it relatively easy for prosecutors to predict the outcome of a suppression hearing and accurately assess the evidentiary strength of the case shortly after arrest. As noted *supra* at 12-13, the *Miranda* rules emphasize a limited number of objective factors, such as whether the warnings were provided. This makes the standard very easy to litigate, and provides prosecutors with a reasonably reliable way of predicting the outcome of suppression hearings. Assuming that a suspect is in custody at the start of interrogation, either the warnings were given and a waiver was obtained, or they were not.

In light of the heavy caseloads many prosecutors face, the clarity of the *Miranda* rules also helps conserve prosecutorial resources by facilitating negotiated dispositions. A defendant who knows that *Miranda* warnings were properly administered is less likely to waste time with a suppression motion. Even if there is a suppression hearing, a prosecutor will have a strong sense *prior* to the hearing whether the statement of the suspect will be admitted. *See, e.g., Fare v. Michael C.*, 442 U.S. at 717 ("*Miranda*'s holding has the virtue of informing police and prosecutors . . . under what circumstances statements obtained during such interrogation are not admissible"). In

the event that there is some problem with use of the suspect's statement, the prosecutor is able to advise the police – before a suppression hearing – that it might be necessary to gather supplemental evidence. Moreover, since both the prosecutor and a defendant have a clear picture at the outset of the prosecution whether a confession will be admitted, plea bargaining may be facilitated.

In short, *Miranda* has made what previously was a difficult fact-sensitive litigation issue quite manageable. When the government can show that *Miranda* warnings were properly given, it not only satisfies an initial legal requirement; it also provides judges with compelling evidence of good faith and adherence to the rule of law. The result in such cases is that what otherwise could be a open-ended inquiry into voluntariness becomes simple and expeditious. *See, e.g., Berkemer*, 468 U.S. at 433 n.20 ("[C]ases in which a defendant can make a colorable argument that a self-incriminating statement was 'compelled' despite the fact that the law enforcement authorities adhered to the dictates of *Miranda* are rare."). Although a defendant is constitutionally permitted to present evidence concerning the circumstances of an interrogation to a jury, *see Crane v. Kentucky*, 476 U.S. 683 (1986), the administration of *Miranda* warnings greatly reduces the likelihood that any given trial will become side-tracked on collateral issues concerning the circumstances under which a confession was obtained. Indeed, the overwhelming familiarity of Americans with *Miranda* warnings doubtless increases the weight that jurors give to statements obtained after a defendant was properly advised of them.

The contrast with the "totality of the circumstances" voluntariness approach required by Section 3501 could not be starker. The very factors enumerated in Section 3501, and this Court's pre-*Miranda* decisions, dramatically

establish the difference between litigating under the objective and certain rules of *Miranda* and the subjective, unpredictable and *ad hoc* determination of "voluntariness." Because of the virtually limitless number of factors that contribute to the determination whether the statements of a defendant are voluntary under all of the circumstances, eliminating *Miranda* will significantly complicate a prosecutor's assessment of the case, undermining plea bargaining and introducing increased risk at trial. *See supra* note 14.

The risk of uncertainty for prosecutors cannot be overstated. There is no clearer way to illustrate the difficulty prosecutors would face in addressing confessions under Section 3501 than by looking at the dramatic inconsistencies in this Court's jurisprudence on confessions prior to *Miranda*.[18] There is a significant downside to reintroducing

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[18] A number of pre-*Miranda* decisions appear to have reached inconsistent outcomes for similarly situated defendants and have created confusion over the weight to be given any particular factor. *Compare Cicenia v. La Gay*, 357 U.S. 504 (1958) (confession admitted after police refuse request to confer with counsel) *and Crooker*, 357 U.S. 433 (same) *with Spano*, 360 U.S. 315 (confession suppressed after police refuse request to confer with counsel) *and Haynes*, 373 U.S. 503 (same). *Compare Stein v. New York*, 346 U.S. 156 (1953) (confession admitted after 12 hours of "relay" interrogation) *with Haynes*, 373 U.S. 503 (confession suppressed after 16 hours of "relay" interrogation). *Compare Brown v. Allen*, 344 U.S. 443 (1953) (confession admitted after eighteen days of interrogation) *with Chambers*, 309 U.S. 227 (confession suppressed when obtained after five days of interrogation). *Compare Thomas v. Arizona*, 356 U.S. 390 (confession admitted where lynching threatened) *with Payne v. Arkansas*, 356 U.S. 560 (1958) (confession suppressed where lynching threatened). *Compare Lisenba v. California*, 314 U.S. 219 (1941) (confession admitted where suspect interrogated constantly for two days without sleep) *with Ashcraft*, 322 U.S. 143, 154 (confession suppressed after suspect subjected to continuous interrogation for thirty-six hours without sleep). These cases

an *ad hoc* approach to defining a vague standard in what is otherwise a relatively settled area of law. How are prosecutors to anticipate what factors any given court will choose to emphasize on any given day? In light of the importance of the interests at issue, this level of uncertainty would undermine effective law enforcement.

B. Settled Community Expectations Weigh Heavily Against Overturning *Miranda*

As noted above, this Court has repeatedly admonished that society's faith in our legal system depends upon consistent application of the prior decisions of this Court. *See Payne*, 501 U.S. at 827; *Vasquez*, 474 U.S. at 265-66. Departure from *Miranda* at this time not only would eliminate a pillar of the law enforcement system that has been eminently workable, but also would undermine the confidence and settled expectations of both the public at large and the law enforcement community about an important element of our criminal justice system. This Court has held that respect for such settled expectations and for stability is "indispensable" to "the rule of law underlying our own Constitution." *Casey*, 505 U.S. at 854. Accordingly, this Court should depart from *Miranda* only if it has been "discounted by society" or if it has become "irrelevant or unjustifiable in dealing with the issue it addressed." *Id.* at 855.

In the case of the criminal justice system, it is difficult to conceive of a legal principle that is more accepted by the public and embedded in the procedures of law enforcement than *Miranda*. Overturning *Miranda* would

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demonstrate the difficulty in attempting to assess the importance of any single, given factor when a court is required to assess the totality of the circumstances.

suggest that the administration of justice is subject to the shifting currents of this Court's membership and the policy preferences of its members. To the public and to the law enforcement community, changing the basic *Miranda* regimen would create the appearance that successive Courts are imposing their varying ideas of social justice on the country – not evenhandedly applying well-established law.

1. The Public Has Accepted and Developed Strong Expectations About *Miranda*

As one commentator has noted, "[t]he *Miranda* warning has become an accepted part of American culture." *Read 'em Their Rights: Miranda Ruling Should Remain Part of American Culture*, Sarasota Herald-Tribune, Dec. 12, 1999, at 2F. Another has observed, "*Miranda* not only has become one of the best-known principles of the U.S. legal system, it also has become an anchor of justice." *Protecting Miranda*, Chicago Sun-Times, Dec. 8, 1999, at 51. Clearly its warnings have permeated our mass culture.[19] One need

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[19] The flurry of editorials in support of *Miranda* published throughout the country in the weeks following the grant of *certiorari* in this case speak to *Miranda*'s deep permeation of our culture. *See, e.g., If Miranda Ain't Broke . . .*, Arizona Daily Star, Dec. 9, 1999, at 22A; *High Court Should Leave Miranda Rule Alone*, Arizona Republic, Dec. 15, 1999, at B8; *Court Should Protect Suspects' Rights*, Atlanta Const., Dec. 16, 1999, at A26; *Miranda Protects Against Abuses*, Chicago Daily Herald, Dec. 10, 1999, at 14; *Protecting Miranda*, Chicago Sun-Times, Dec. 8, 1999, at 51; *The Folly of Junking Miranda*, Chicago Tribune, Dec. 9, 1999, at 28; *Silent Right*, The Columbian (Vancouver, Wash.), Dec. 10, 1999, at A10; *Rights, Not Technicalities*, Courier-Journal (Louisville, Ky.), Dec. 11, 1999, at 10A; *Leave Miranda Alone in Old Age*, Dayton Daily News, Dec. 10, 1999, at 14A; *Keep the Miranda Rule – It is Imbedded in Americans' Concept of Justice. Why Throw it Out?*, Des Moines Register, Dec. 11, 1999, at 8; *Saving Miranda*, Detroit News, Dec. 8, 1999, at A10; *Miranda Should Stand – Rights Warnings Improve Justice*, Greensboro News & Record, Dec. 12, 1999, at H2; *Miranda Under Assault*, Hartford Courant, Dec. 27, 1999, at A10; *Don't Revoke*

look no further than the reading of *Miranda* rights in every arrest depicted on television and in movies to understand this basic fact. Indeed, to many Americans, these warnings embody the very idea of constitutional restraint on police action.

A retreat from these warnings might lead many to believe that they had lost underlying rights, and it would surely undermine public confidence in the security of basic legal protections. Overturning *Miranda* would also send a strong message that this Court no longer believes that effective law enforcement is compatible with informing suspects of their basic constitutional rights. Such a message

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Miranda, The Herald (Rock Hill, S.C.), Dec. 8, 1999, at 9A; *No Need to Change Miranda Warnings*, News Tribune (Tacoma, Wash.), Dec. 13, 1999, at A8; *Miranda Revisited*, N.Y. Times, Dec. 7, 1999, at A22; *Miranda Was, and Is, Sound*, Omaha World-Herald, Dec. 10, 1999, at 26; *Don't Mess with Miranda – Supreme Court Should Uphold its Original Ruling*, Pittsburgh Post-Gazette, Dec. 12, 1999, at E2; *Supreme Court Should Uphold Miranda Ruling*, Portland Press Herald, Dec. 8, 1999, at 8A; *Preserving Miranda – A Measure Prompted by a History of Abuse of Suspects is Suddenly at Risk*, Post-Standard (Syracuse, N.Y.), Dec. 10, 1999, at A14; *Keep Miranda*, Press Democrat (Santa Rosa, Cal.), Dec. 9, 1999, at B6; *Double Jeopardy for Miranda*, Press-Enterprise (Riverside, Cal.), Dec. 9, 1999, at A14; *Preserve "Miranda Rights,"* Providence Journal, Dec. 12, 1999, at F14; *Miranda's Right to Remain*, Roanoke Times & World News, Dec. 8, 1999, at A12; *Miranda Warnings – More Beneficial Than Not*, San Francisco Chron., Dec. 8, 1999, at A28; *Read 'em Their Rights – Miranda Ruling Should Remain Part of American Culture*, Sarasota Herald-Tribune, Dec. 12, 1999, at 2F; *Police Must Spell Out Suspects Rights*, Seattle Post-Intelligencer, Dec. 8, 1999, at A12; *Protecting Individual Dignity*, St. Louis Post-Dispatch, Dec. 7, 1999, at B14; *Affirm "Miranda" Decision*, St. Petersburg Times, Dec. 13, 1999, at 10A; *Save Miranda Decision – It's a Constitutional Right*, Syracuse Herald-Journal, Dec. 8, 1999, at A12; *That Challenge to the Miranda Rule*, Tampa Tribune, Dec. 8, 1999, at 12; *Keep Reading them their Rights*, USA Today, Dec. 8, 1999, at 30A; *Self-Incrimination Save Miranda*, Virginian-Pilot and Ledger-Star, Dec. 24, 1999, at B8.

would further erode confidence in law enforcement, and in its ability to reconcile the goal of crime control with the rule of law.

This loss of confidence would have adverse consequences for the criminal justice system. Law enforcement depends upon the public at large to serve as witnesses, to cooperate with investigations, to act responsibly when appointed as jurors, and generally to respect the authority of law enforcement agents. Any lessening of public faith in the manner in which investigations are conducted could undermine this essential cooperation.

Moreover, *Miranda* provides a fundamental safeguard to indigent and uneducated suspects. Wealthy and well-educated suspects often know how to exercise their rights because they have the benefit of counsel. Indigent suspects, on the other hand, often do not. *Miranda* tends to address this inequity by informing indigent defendants of their rights and by expressly offering a lawyer to those defendants. Many have claimed that our criminal justice system is unfair because it discriminates against the poor. *See, e.g.*, David Cole, *No Equal Justice: Race and Class in the American Criminal Justice System* (1999). Overturning *Miranda* would doubtless provide further support to those who attack the legitimacy of the criminal justice system on this basis.

Finally, overruling *Miranda* would require the Court to uproot dozens of decisions that have followed it over the years. In the thirty-four years since *Miranda* was decided, no opinion of this Court has ever questioned its validity. On the contrary, the Court has repeatedly reaffirmed and followed the decision, never once suggesting that there was any possibility that Congress had effectively overruled it

shortly after it was decided. The Court has again and again returned to the decision to elaborate its meaning, and to extend or refine its reasoning and consequences.[20] Whether or not each and every one of those cases was correctly decided (and some signers of this brief believe that some were not), to overrule *Miranda* would uproot not merely a single case – important as this single case is in the minds of the public and law enforcement officers as a symbol of enlightened law enforcement and respect for constitutional rights – but overturn in a single blow an entire branch of jurisprudence, on whose validity and integrity this Court has never cast the slightest doubt. The inevitable public perception that well-established decisions of this Court will be capriciously overturned based on the policy preferences of its changing members could gravely damage the dignity of the law.

2. Law Enforcement Has Developed Settled Expectations Concerning *Miranda*

As described in Section II.A above, law enforcement has very effectively integrated *Miranda* into its procedures.

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[20] *See, e.g., Davis v. United States*, 512 U.S. 452; *Duckworth v. Eagan*, 492 U.S. 195 (1989); *Arizona v. Roberson*, 486 U.S. 675, 681 (1988) ("We have repeatedly emphasized the virtues of a bright-line rule in cases following . . . *Miranda*."); *Moran*, 475 U.S. 412; *Elstad*, 470 U.S. at 317 ("The Court today in no way retreats from the bright-line rule of *Miranda*."); *Berkemer*, 468 U.S. at 429 ("In the years since the decision in *Miranda*, we have frequently reaffirmed the central principles established by that case . . . ."); *New York v. Quarles*, 467 U.S. 649 (1984); *Solem v. Stumes*, 465 U.S. 638 (1984); *Edwards v. Arizona*, 451 U.S. 477 (1981); *Innis*, 446 U.S. 291.

Indeed, less than seven years ago this Court decided, in *Withrow v. Williams*, 507 U.S. 680 (1993), that a *Miranda* violation is cognizable in *habeas corpus* proceedings. In so doing, this Court reaffirmed the constitutional foundation of *Miranda*, and its applicability to the states.

Indeed, one of the primary reasons for the widespread support for *Miranda* among law enforcement is that the constitutional framework concerning confessions has remained remarkably stable since the late 1960s. This is due, in no small part, to the efforts of this Court to resist proposals to revamp or tinker with the constitutional procedures governing interrogations:

> Since the time *Miranda* was decided, the Court has repeatedly refused to bend the literal terms of that decision. To be sure, the Court has been sensitive to the substantial burden the *Miranda* rules place on local law enforcement efforts, and consequently has refused to extend the decision or to increase its strictures on law enforcement agencies in almost any way. . . . *Miranda* is now the law and, in my view, the Court [should] provide[] sufficient justification for departing from it or for blurring its now clear strictures.

New York v. Quarles, 467 U.S. at 660, 662-63 (O'Connor, J., dissenting in part) (collecting cases). In the years since *Miranda*, this Court has consistently rejected modifications that might obscure *Miranda*'s rule. *See, e.g., Moran*, 475 U.S. at 425 (rejecting "the approach urged by respondent . . . [which] would have the inevitable consequence of muddying *Miranda*'s otherwise relatively clear waters"); *Illinois v. Perkins*, 496 U.S. 292, 299 (1990) (noting that "[l]aw enforcement officers will have little difficulty putting into practice our holding").

In the area of law enforcement, consistent application of the law and *stare decisis* are particularly important because the decisions of this Court inevitably affect the day-

to-day conduct of hundreds of thousands of officers. Those officers look to this Court for clear guidance on constitutional matters. A retreat from *Miranda* could disrupt decades of settled police practice and introduce new opportunity for police to make mistakes – mistakes that may render the evidence they gather inadmissible.

Another benefit of the *Miranda* rule is that the values underlying the decision have promoted professionalism among line law enforcement agents throughout this country. Federal law enforcement agencies recognized this even before *Miranda* itself. In explaining why the FBI used *Miranda*-style warnings some fourteen years before the *Miranda* decision, former FBI Director J. Edgar Hoover stated:

> Law enforcement, however, in defeating the criminal, must maintain inviolate the historic liberties of the individual . . . . We can have the Constitution, the best laws in the land, and the most honest reviews by courts -- but unless the law enforcement profession is steeped in the democratic tradition, maintains the highest in ethics, and makes its work a career of honor, civil liberties will continually -- and without end be violated.

J. Edgar Hoover, *Civil Liberties and Law Enforcement: The Role of the FBI*, 37 Iowa L. Rev. 175, 177-182 (1952) (quoted in *Miranda*, 384 U.S. at 484, n.54).

The FBI warnings – which have been administered for almost *fifty* years – exemplify that respect for human rights and dignity are consistent with the highest aspirations of law enforcement. The effect of *Miranda* on state and local agencies has been equally profound. *See, e.g., Segura*

v. United States, 468 U.S. 796, 838 (1984) (Stevens, J., dissenting) ("For a congery of reasons, among which unquestionably is the added respect for the constitutional rights of the individual engendered by cases like *Miranda* . . . the professionalism that has always characterized the Federal Bureau of Investigation is now typical of police forces throughout the land.").

Finally, law enforcement has a legitimate settled expectation in the message that *Miranda* sends concerning the role of police. *Miranda* is central to the way American law enforcement personnel see themselves and the way that they want to be seen by others. *Miranda* was revolutionary not only because of the content of the warnings, but also because of who was required to give them. It requires police officers to acknowledge explicitly the constitutional limits of their conduct in the suspect's presence. This sends a powerful message from the police to criminal suspects that the police recognize that they are not above the law – and that the writ of this Court runs to every stationhouse.

CONCLUSION

For the reasons set forth herein, *amici* respectfully request that the Court reverse the judgment of the United States Court of Appeals for the Fourth Circuit.

Respectfully submitted,

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[21] Counsel would like to recognize the considerable assistance of Eric E. Eisenberg, a third-year student at Georgetown University Law Center and Christopher B. Chorengel, a second-year student at the George Washington University Law School.

APPENDIX

AMICI CURIAE

Donald B. Ayer,
Deputy Attorney General, 1989-90; Deputy Solicitor General, 1986-88; United States Attorney, Eastern District of California, 1982-86; Assistant United States Attorney, Northern District of California, 1977-79

Griffin B. Bell,
United States Attorney General, 1977-79; Circuit Judge, United States Court of Appeals for the Fifth Circuit, 1961-76

Joseph E. Brann,
Director, Office of Community Oriented Policing Services (COPS), Department of Justice, 1994-99; Police Chief, Hayward, California, 1990-94; Officer, Santa Ana, California, 1970-90

William Bratton
Police Commissioner, New York Police Department, 1994-96; Police Commissioner, Boston Police Department, 1993-94; Superintendent of Police, Boston, 1992-93; Chief of New York City Transit Police, 1990-92; Superintendent of Metropolitan District Commission Police (Boston), 1986-90; Chief, Massachusetts Bay Transportation Authority Police, 1983-86; Superintendent of Police, Boston, 1980-83; Officer, Boston Police Department, 1970-80

Michael R. Bromwich,
Inspector General, Department of Justice, 1994-99; Assistant United States Attorney, Southern District of New York, 1983-87

Craig Calhoun,
Police Chief, Hayward, California

Zachary W. Carter,
United States Attorney, Eastern District of New York, 1993-99; United States Magistrate Judge, Eastern District of New York, 1991-93; Judge, Criminal Court, Queens County, 1987-91; Executive Assistant District Attorney, Kings County, New York, 1982-87; Assistant United States Attorney, Eastern District of New York, 1975-80.

Thomas V. Cash,
Special Agent-in-Charge of Florida and Caribbean, U.S. Drug Enforcement Agency, 1988-94; Agent, U.S. Drug Enforcement Agency, 1973-88

Dean M. Esserman,
Chief of Police, Stamford, Connecticut; Chief of Police, New York State Metropolitan Transit Authority, Metro North, 1993-98; Assistant Chief of Police, New Haven, Connecticut, 1991-93

Jamie S. Gorelick,
Deputy Attorney General, 1994-97

Jo Ann Harris,
Assistant Attorney General for the Criminal Division, 1993-95; Chief, Fraud Section, United States Department of Justice, 1979-81; Assistant United States Attorney, Southern District of New York, 1974-79, 1981-83

Philip B. Heymann,
Deputy Attorney General, 1993-94; Assistant Attorney General for the Criminal Division, 1978-81

Eleanor Hill,
Inspector General, Department of Defense, 1995-99; Special Attorney, Organized Crime Strike Force, Middle District of Florida, 1978-80; Assistant United States Attorney, Middle District of Florida, 1975-78

Charles J. Hynes,
District Attorney, Kings County, New York

Ralph C. Martin II,
District Attorney, Suffolk County (Boston), Massachusetts

National Black Police Association,
Founded in 1972, the NBPA is a nationwide organization of African-American police associations with approximately 35,000 individual members

The Police Foundation,
Founded in 1970, the Police Foundation is an organization dedicated to improving policing in America through empirical research and technology.

Larry A. Potts,
Deputy Director, Federal Bureau of Investigation, 1995; Assistant Director, F.B.I. Criminal Investigative Division, 1992-95; F.B.I. Agent 1974-91

Stephen A. Saltzburg,
Deputy Assistant Attorney General for the Criminal Division, 1988-89

Jerry Sanders,
Police Chief, San Diego, California, 1993-99; Officer, San Diego Police Department, 1973-93

Paul L. Shechtman,
New York State Criminal Justice Director, 1995-97; Criminal Division Chief, United States Attorney for the Southern District of New York, 1993-95; Counsel to the District Attorney, 1987-93; Assistant United States Attorney, Southern District of New York, 1981-85

Darrel Stephens,
Police Chief, Charlotte-Mecklenburg, North Carolina

Herbert J. Stern,
United States District Judge, District of New Jersey, 1974-87; United States Attorney, District of New Jersey, 1971-74

Larry D. Thompson,
United States Attorney, Middle District of Georgia, 1982-1986

John F. Timoney,
Police Commissioner, Philadelphia, Pennsylvania; Deputy Commissioner, New York Police Department, 1995-96; Chief of Police, New York Police Department, 1994-95; Officer, New York Police Department, 1969-94

John K. Van de Kamp,
Attorney General, State of California, 1983-91; District Attorney, Los Angeles, California, 1975-83; Director, Executive Office of United States Attorneys, 1968-69; United States Attorney, Central District of California, 1966-67; Assistant United States Attorney, Central District of California, 1960-66

Dan K. Webb,
United States Attorney, Northern District of Illinois, 1981-85; Director, Illinois Department of Law Enforcement, 1978-79; Assistant United States Attorney, Northern District of Illinois, 1970-76

William F. Weld,
Governor, Commonwealth of Massachusetts, 1991-97; Assistant Attorney General for the Criminal Division, 1986-88; United States Attorney, District of Massachusetts, 1981-86

Richard Word,
Police Chief, Oakland, California